LG Williams & Prichard - Hedydd Davies

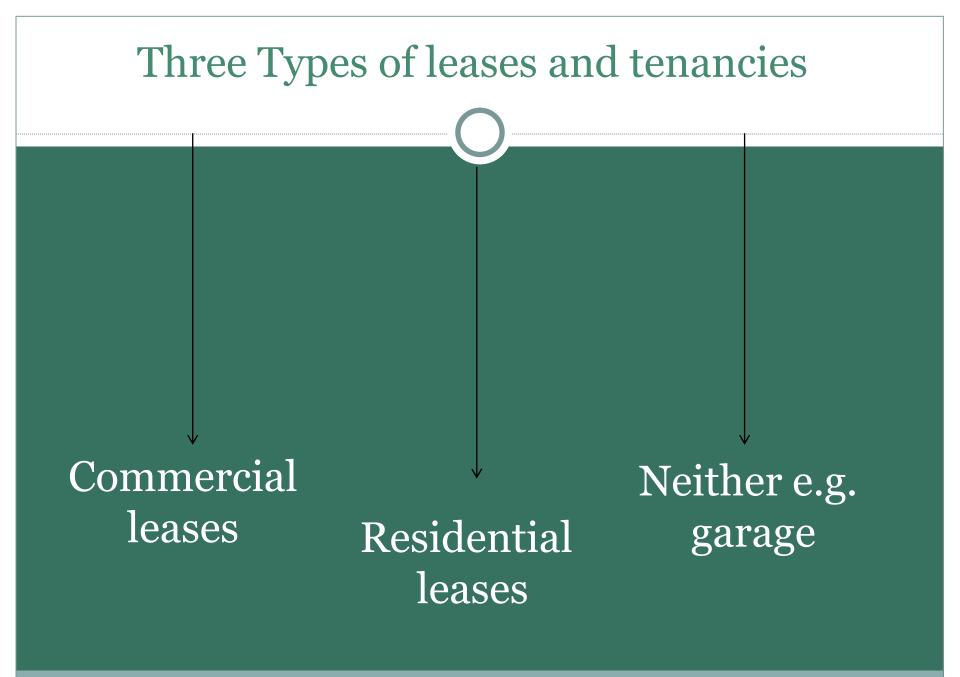






LG WILLIAMS & PRICHARD SOLICITORS - CYFREITHWYR

POSSESSION OF RESIDENTIAL PROPERTIES





- Must obtain a Court Order
- Criminal Offence maximum sentence of 2 years

SECTION 8

- 2 months
- No reason
- No claim for rent arrears
- Usually no need to attend Court
- Order usually made around 6 weeks after issuing proceedings
- Possession within 14 42 days

SECTION 21 - PITFALLS

- Rolling contract from outset must expire on rent payment date
- Problems with serving the notice
- No prescribed notice
- Errors with the notice
- Rent Smart Wales
- Deposit
- Prescribed Information

- 17 grounds
 - 8 mandatory grounds
 - 9 discretionary grounds
- 'Ground 8

Both at the date of the service of the notice under section 8 of this Act relating to the proceedings for possession and at the date of the hearing—

(a) if rent is payable weekly or fortnightly, at least eight weeks' rent is unpaid;
(b) if rent is payable monthly, at least two months' rent is unpaid'

- Two weeks' notice
- Attendance at Court is required
- Rental arrears should be clear
- Order for possession within 14 -42 days
- Will include claim for rental arrears

SECTION 8 - PITFALLS

- Tenant may not be in enough arrears at date of hearing
- Claim under Section 11 Landlord and Tenant Act 1985
- Can delay possession
- Correct parties

ENFORCEMENT

County Court Bailiffs

- £121
- 5 weeks
- High Court Enforcement
 - o Court Application Fee to Transfer £100
 - o Court Transfer fee £66
 - HCEO's costs £375 plus VAT (if the eviction lasts more than one hour, hourly rates will apply
 - o Total £616 +

ENFORCEMENT

• Landlord facing financial difficulty due to loss of rent

• Increased risk of damaged to the property

 HCEO able to action quicker given delays with County Court Bailiff

ENFORCEMENT

- Indicators which can affect the chance of recovery:
- Has the tenant lost their job or been made redundant?
- Has there been a relationship split, and has the main income been lost?
- Are there any health problems mental or physical?
- Does the tenant suffer from drink or drugs misuse?
- Consider the following:
- Are you likely to get your money back, including court costs if successful?
- Does the tenant have any other outstanding debts/CCJ's?
- Does the tenant have any other form of income?
- Does the tenant own any valuable assets?

Gather all information at the outset – before handing over the keys!

- Contact details
- Employment information
- Date of Birth
- Email address
- Vehicle Registration Details
- Establish the tenants financials
 - Sight several statements
 - Attachment of Earnings
- Ask for a guarantor (obtain their contact information too)
- ID

• Referencing

